

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

United States of America,

Plaintiff,

v.

Arlan Michael Arnold,

Defendant.

**ORDER**

Criminal No. 07-108 ADM/JSM

Civil No. 11-2969 ADM

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Laura M. Provinzino, Esq., Assistant United States Attorney, Minneapolis, MN, on behalf of Plaintiff.

Arlan Michael Arnold, pro se.

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This matter is before the undersigned United States District Judge for a ruling on Arlan Michael Arnold's ("Arnold") Motion to Alter or Amend Judgment Under Rule 59(e) of the Federal Rules of Civil Procedure [Docket No. 63<sup>1</sup>] (the "Motion"). Arnold moves to alter or amend the Order dated January 24, 2012 [Docket No. 61] denying Arnold's 28 U.S.C. § 2255 Motion to Vacate, Set Aside, or Correct Sentence [Docket No. 47]. For the reasons set forth below, the Motion is denied.

District courts enjoy broad discretion in deciding whether to grant a motion under Rule 59(e). Innovative Home Health Care, Inc. v. P.T.-O.T. Assocs. of the Black Hills, 141 F.3d 1284, 1286 (8<sup>th</sup> Cir. 1998). "Rule 59(e) motions serve the limited function of correcting manifest errors of law or fact or to present newly discovered evidence." Id. (quotation omitted). "Such

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<sup>1</sup> All docket numbers refer to the docket in the criminal case only; documents for both the civil and criminal cases have been added to the criminal docket alone.

motions cannot be used to introduce new evidence, tender new legal theories, or raise arguments which could have been offered or raised prior to entry of judgment.” Id. (citation omitted).

Arnold has not established the existence of any manifest errors of law or fact, nor does he present any newly discovered evidence. Rather, Arnold merely re-argues that his § 2255 motion should be held timely under the doctrine of equitable tolling. As explained in the Court’s prior Order, it should not. Notwithstanding his protestations to the contrary, Arnold was not diligent in pursuing his § 2255 motion, and therefore it is time-barred.

Based upon all the files, records and proceedings here, **IT IS HEREBY ORDERED** that Arnolds’s Motion to Alter or Amend Judgment Under Rule 59(e) of the Federal Rules of Civil Procedure [Docket No. 63] is **DENIED**.

BY THE COURT:

s/Ann D. Montgomery  
ANN D. MONTGOMERY  
U.S. DISTRICT JUDGE

Dated: March 20, 2012.